IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

***

WRIT PETITION NO : 15410 of 2005

Between:

Gumaparlapati Ramanamma W/o G. Veeraraghavaiah
Sarpanch of Velagapadu Gram Panchayat, Kaligiri Mandal, Nellore District

..... PETITIONER

A N D

1 The District Panchayat Officer, Nellore District
2 The Mandal Development Officer, Kaligiri Mandal, Nellore District
3 The Panchayat Secretary, Velagapadu Gram Panchayat, Kaligiri Mandal,

Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate Writ order or direction more particularly one in the nature of Mandamus declaring the action of the 3rd respondent in illegally convening Gram Panchayat Meetings at KaKammavaripalem by allowing the members of the Gram Panchayat to pass resolutions, though the petitioner is competent to convene the meetings, which is contrary tot he provisions of G.O.Ms. No. 227, Panchayat Raj and Rural Development & Relief (Panchayats II) Department dt 13-04-95, as illegal, arbitrary, gross violation of principles of natural justice and in violation of Article 14, 19 and 21 of the Constitution of India and consequently set a side the resolution dt 08-07-05 passed by the 3rd respondent by directing the respondents to allow the petitioner to convene Gram Panchayat Meetings at Velagapadu and pass such other order or orders.

Counsel for the Petitioner: MR.K.RATHANGA PANI REDDY

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following at the admission stage**:** (Order follows 2nd page)

O R D E R

This writ petition is filed seeking to declare the action of the third respondent in illegally convening Gram Panchayat Meetings at Kammavaripalem by allowing the members of the Gram Panchayat to pass resolutions, which is contrary to the provisions of G.O.Ms.No.227, Panchayat Raj and Rural Development and Relief (Panchayats-II) Department, dated 13-4-1995 as illegal, arbitrary, gross violation of the principles of natural justice and in violation of Article 14, 19 and 21 of the Constitution of India and consequently set aside the resolution dated 08-7-2005 passed by the third respondent directing them to allow the petitioner to convene Gram Panchayat Meets at Velagapadu.

The case of the petitioner is that pursuant to the Gram Panchayat Elections conducted in the year 2001, he was elected as Sarpanch of Velagapadu Gram Panchayat consists of Velagapadu village (main village) and hamlets of Kammavaripalem, Kothuru and Peddannaluru. As the village Velagapadu is the main village of Gram Panchayat and other villages being hamlets, the Gram Panchayat has been conducting its meetings at Velagapadu as per GO.Ms.No.227, Panchayat Raj and Rural Development and Relief (Panchayats-II) Department,

dated 13-4-1995. According to the said GO, the Sarpanch of the Gram Panchayat has to convene a meeting after receiving the requisition from not less than one-third members of Gram Panchayat by giving three clear days notice before the date of meeting. As a sarpanch of the village, the petitioner has conducted number of general body meetings at Velagapadu village for the last three years, completed number of developmental works and also taken up works to be done in future.

While things stood thus, the third respondent has convened the Gram Panchayat meeting to be held at Kamavaripalem on 08-7-2005 by issuing notice on 5-7-2005, even though the third respondent is not having any power to issue such notice to convene the meeting and as per the said GO it is only the Sarpanch of the Gram Panchayat who has got power to convene the meeting and if the sarpanch fail to convene the meeting, the majority of the members of Gram Panchayat, who have to call for the meeting. Moreover, the place of meeting cannot be convened at Kammavaripalem and it should be convened at original place i.e., the main village of Gram Panchayat, Velagapadu and without even there being prior resolution in the general body of the Gram Panchayat to shift the place of meeting, the third respondent cannot change the place from Velagapadu to Kammavaripalem, as he is not having any power to convene the meeting.

The petitioner further submits that the third respondent has convened the meeting on 08-7-2005 at Kammavaripalem without issuing any notice to him under the chairmanship of Vice President meeting was convened wherein resolutions were passed cancelling the earlier resolution dated 25-3-2005 for construction of

community hall at Velagapadu removing the signatory power of the cheques of Sri Katragadda Doraswaminaidu and nominating Kommalapati Venkataiah etc. All the above resolutions are prima facie illegal as the same being without any power and jurisdiction. Therefore, the entire resolutions passed in the Gram Panchayat meeting held on 8-7-2005 are nullity, cannot have any force and validity. When the petitioner brought the matter to the notice of the first and second respondents, no action is contemplated against the third respondent nor the resolutions were cancelled. The third respondent by brushing the statutory rules acted illegally, which is causing great hardship and irreparable loss. The present writ petition is filed to declare the action of the third respondent in illegally convening Gram Panchayat Meetings at Kammavaripalem by allowing the members of the Gram Panchayat to pass resolutions, which is contrary to the provisions of G.O.Ms.No.227, Panchayat Raj and Rural Development and Relief (Panchayats-II) Department, dated 13-4-1995 as illegal, arbitrary, gross violation of the principles of natural justice and in violation of Article 14, 19 and 21 of the Constitution of India and consequently set aside the resolution dated 08-7-2005 passed by the third respondent directing them to allow the petitioner to convene Gram Panchayat Meets at Velagapadu.

Heard the learned counsel for the petitioner as well as the learned Govt.Pleader for the respondents.

Section 246 of the A.P.Gram Panchayat Act, 1994 confers power on the Government to cancel or suspend resolution of a Gram Panchayat, Mandal Parishad or a Zilla Parishad. The Government may either suo mottu or on a reference made to them by the Executive Authority or Mandal Parishad Development Officer or as the case may

be, the Chief Executive Authority, in the manner prescribed by order in writing cancel any resolution passed by a Gram Panchayat, Mandal Parisahd or a Zilla Parishad or any Standing Committee of a Zilla Parishad, if in their opinion such resolution, is not legally passed; or is in excess or abuse of the powers conferred by or under this Act, or any other law; or on its execution is likely to cause danger to human life, health or safety or is likely to lead to riot or affray. The Government shall, before taking action under sub-section (1) give the Gram Panchayat, Mandal Parishad or the Zilla Parishad, as the case may be, an opportunity for explanation. If in the opinion of the District Collector, immediate action is necessary to suspend a resolution on any of the grounds referred to in clause (c) of sub-section (1), he may make a report to the Government and the Government may, by order in writing, suspend the resolution.

From the above, it is clear that instead of filing this writ petition, the petitioner should have approached the Government seeking to invoke the powers either suo mottu or on a reference made to them by the Executive Authority in the manner prescribed by order in writing to cancel any resolution passed by a Gram Panchayat. Therefore, the petitioner has not made any reference to the Government with regard to the resolutions passed by the Gram Panchayat as per the meetings conducted by the Secretary of the Gram Panchayat, dated 08-7-2005. Therefore, when the statute has conferred power on the Government, it is for the petitioner to approach the Government and seek exercise of such power instead of filing the present writ petition under Article 226 of the Constitution of India. Thus, I am not able to appreciate the contentions raised by the petitioner in this writ petition. The writ

petition has no merit and is liable to be dismissed.

In the result, the writ petition is accordingly dismissed without costs. However the petitioner is at liberty to approach the Government and seek exercise of the powers conferred under section 246 of the AP Gram Panchayat Act, 1994.

JULY 18, 2005. ----------

I S L. ELIPE DHARMA RAO, J.

To

1 The District Panchayat Officer, Nellore District
2 The Mandal Development Officer, Kaligiri Mandal, Nellore District
3 The Panchayat Secretary, Velagapadu Gram Panchayat, Kaligiri Mandal,

Nellore District

4 Two CCs to the Govt.Pleader for Panchayat Raj & Rural Development,

High Court Buildings, High Court of AP Hyderabad.

5 One CC to Mr.K.Rathangapani Reddy (4414), Counsel for the Petitioner.

6 Two CD copies.